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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,350	04/13/2001	George Adaniya	61650- 011 (ALPL-110)	2426

7590 03/12/2003

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EXAMINER

THANH, LOAN H

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SA

Office Action Summary	Application No. 09/834,350	Applicant(s) ADANIYA ET AL.	
	Examiner LoAn H. Thanh	Art Unit 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 December 2002.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8, 10, 14-19, 21, 22 and 26-30 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-8, 10 and 14-16 is/are allowed.
- 6) Claim(s) 17-19, 21, 22 and 26-30 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 April 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____.
 - 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,5-6.
- 4) Interview Summary (PTO-413) Paper No(s) _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other:

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of species of figs. 4-6 in Paper No. 8 is acknowledged.

An action on the merits now follows.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sidewalls decreasing monotonically must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

The specification describes the side walls (122) to decrease monotonically. Although it appears that the end walls (106) are the walls which decrease monotonically. See page 9, first paragraph.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17-19,21-22,27,29-30 are rejected under 35 U.S.C. 102(b) as being anticipated by (Moden et al. (U.S. Patent No. 5,013,298).

Moden et al. disclose an implantable access device having a plate (26), at least two walls in the broadest interpretation. See fig. 1-4. The walls being any of the 4 walls. The valve assembly is considered to be the septum which is capable of performing the function as claimed. It is normally closed until it has been pierced by a filament.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26,28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moden et al. (U.S. Patent No. 5,013,298) in view of Fenton, Jr. (U.S. Patent No. 5,178,612).

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Moden et al. teach all the limitations of the claims except the material of the port being titanium, ceramic or steel. Moden et al. does teach the housing to be made of plastic or metal. Fenton, Jr. et al. teach an implantable port in the analogous art. Fenton et al. teach the housing to be made of stainless steel or other surgical grade steel or biocompatible hard material, such as titanium, DuPont Delrin.TM. (acetal resin) or Teflon.TM. (polytetrafluoroethylene), Nylon, polyethylene thermoplastic, or mixtures thereof. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the material of the port as taught by Fenton, Jr. in order to provide biocompatible materials.

With respect to claim 26, Moden et al. does not teach at least one wing extending outward from the port adapted to receive a fastener. Fenton, Jr. discloses a wing with suture holes (40) in the analogous art of implantable ports. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the extended area beyond the port walls with suture holes as taught by Fenton, Jr. in order to provide securement of the implantable port to a desired surface.

Allowable Subject Matter

Claims 1-8,10,14-16 are allowed.

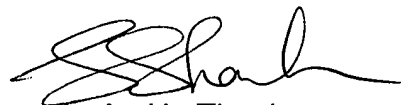
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LoAn H. Thanh whose telephone number is (703) 305-0038. The examiner can normally be reached on Monday to alternating Fridays (7:00 am-4:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on (703) 308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



LoAn H. Thanh
Examiner
Art Unit 3763

LT
March 10, 2003